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ARIZONA CORPORATION COMMISSION  
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BEFORE THE ARIZONA CORPORATION COMMISSION

COMMISSIONERS

KRISTIN K. MAYES, Chairman  
GARY PIERCE, Commissioner  
PAUL NEWMAN, Commissioner  
SANDRA D. KENNEDY, Commissioner  
BOB STUMP, Commissioner

IN THE MATTER OF THE  
APPLICATION OF THE GENERIC  
PROCEEDING CONCERNING  
ELECTRIC RESTRUCTURING ISSUES

DOCKET NO. E-00000A-02-0051  
E-00000A-01-0630

**RESPONSE OF FREEPORT-  
MCMORAN COPPER  
& GOLD INC. AND ARIZONANS  
FOR ELECTRIC CHOICE AND  
COMPETITION TO SEMPRA  
ENERGY SOLUTIONS  
PROCEDURAL REQUEST AND  
COMMENTS ON RETAIL  
COMPETITION**

Arizona Corporation Commission

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Freeport-McMoRan Copper & Gold Inc. and Arizonans for Electric Choice and Competition (hereafter collectively "AECC") hereby submits this Response to Sempra Energy Solutions' ("Sempra") procedural request filed on July 8, 2010 in the above-captioned matter. AECC supports Sempra's procedural request to move from a continued debate over the advantages and disadvantages of electric retail competition to an actual application for a competitive Certificate of Convenience and Necessity ("CC&N").

AECC reiterates that developing a competitive market for electric generation continues to be the public policy of this state. A.R.S. §40-202.B [It is the public policy of this state that a competitive market shall exist in the sale of electric generation service]. What follows is a brief summary of retail prices and consumer benefits resulting from electric retail competition in other jurisdictions, and is intended to supplement AECC's other comments filed in this proceeding on April 7, 2010.

1. California

1 California SB 695 directed the California Public Utilities Commission ("CPUC")  
2 to allow electric competition for primarily non-residential customers. The CPUC issued a  
3 decision on March 15, 2010 (Decision No. 10-03-022) imposing load caps and phase-in  
4 periods for the reintroduction of competitive retail markets. These rules took effect on  
5 April 11, 2010, and contain caps and specific phase-in periods (over the next 4 years) that  
6 will help ease California towards a fully competitive market in retail electricity. Although  
7 new commercial and industrial load customers are now eligible for direct access service,  
8 residential customers already taking direct access service (having opted for the service  
9 prior to the suspension) will have an ability to choose an electric supplier as well.  
10 Decision at 23. Generation costs are expected to decrease during the phase-in period, and  
11 both initial rounds (Rounds 1 and 2) of applications to participate in the competitive  
12 market have been fully subscribed (Round 1 was fully subscribed within less than one  
13 minute).

14 2. Pennsylvania

15 Certain states have historically had higher than average electric prices. California,  
16 Pennsylvania, New York, and most of New England opened their retail electricity markets  
17 to competition to combat these higher than average prices.<sup>1</sup> Pennsylvania has consistently  
18 been cited as one of the most successful states in achieving its electric competition goals.  
19 *Id.* Although retail prices have been subject to rate caps in Pennsylvania, the  
20 Pennsylvania Public Utilities Commission's 2008-2009 Annual Report states that one way  
21 to mitigate the impact of rate cap expiration is to continue to remove barriers to electric  
22 competition. Annual Report at 33. Pennsylvania electric providers have already started  
23 competing for customers with lower prices. In October of 2009, the Commonwealth  
24 Foundation, a Pennsylvania based think tank, reported that a Virginia based energy

25  
26 <sup>1</sup> Electric Power Industry Restructuring Fact Sheet  
[www.eia.doe.gov/cneaf/electricity/page/fact\\_sheets/restructuring.html](http://www.eia.doe.gov/cneaf/electricity/page/fact_sheets/restructuring.html) produced by the U.S. Department of Energy.

1 company was offering a 10% discount off of the price offered by PPL Electric Utilities, a  
2 large Pennsylvania electric utility.

3 **3. New York**

4 In the New York service area during 2009, electricity prices were the lowest they  
5 had been in ten years, 49% below 2008 levels. *Power Moves*, Forbes, April 12, 2010.  
6 Moreover, a market analysis done by the Analysis Group in 2005 showed that as energy  
7 prices increased in general, New York's prices remained stable. Analysis Group Report  
8 entitled *Retail Electric Competition in New York*, Aug. 2005. New York has "succeeded  
9 in building a market for Competitive Service Providers . . . despite adverse regulatory and  
10 market conditions." *Id.* at 7. Furthermore, open markets is supporting the growth of the  
11 use of renewable technology as New York's Sloan-Kettering Cancer Center's Zuckerman  
12 Research Center recently signed a deal with Mountain energy for approximately 31,500  
13 wind Renewable Energy Credits. *Restructuring Today*, July 7, 2010.

14 **4. Texas**

15 In 2009, the Texas legislature adopted legislation to stop electric deregulation in  
16 portions of the state not located within the Electric Reliability Council of Texas  
17 ("ERCOT"). In analyzing the legislation, it was determined that cheaper generation  
18 pricing under a regulated scheme was primarily the result of an abundance of lignite, a  
19 coal-like fuel source.<sup>2</sup> Hence, lower electricity pricing for incumbent utilities in  
20 comparison to market alternatives was due to the amount of lignite being used. By  
21 comparison, this is not the situation in Arizona, where incumbent utilities do not have  
22 access (or incentive) to burn a cheaper coal-like substance like lignite for new facilities to  
23 generate cheap electricity. Finally, despite rising energy costs, the average rate of  
24 electricity offered in 2009 in Texas is only 2.9 percent higher than the inflation-adjusted  
25 rate in 2001 and the average Texan outside of the ERCOT can now choose from 28

26 <sup>2</sup> Bill Analysis at 4.

1 providers.

2 5. **Maryland**

3 In February of 2010, Maryland residential consumers were able to take advantage  
4 of a 14% energy bill savings by switching to competitive suppliers. Maryland Residential  
5 Electricity Choice, Feb. 25, 2010, [www.ElectricityWatch.org](http://www.ElectricityWatch.org), accessed at  
6 [www.electricitywatch.org/maryland-residential-electricity-choice/](http://www.electricitywatch.org/maryland-residential-electricity-choice/). The push to re-  
7 regulate Maryland's markets failed in 2009 and now consumers are seeing the benefits of  
8 competition.

9 6. **Connecticut**

10 There are two major electric suppliers in Connecticut; Connecticut Light & Power  
11 ("CL&P") and United Illuminating ("UI"). Approximately 60% of CL&P's Power load is  
12 being served by a competitive supplier, representing approximately 28% of CL&P's  
13 customers. Likewise, approximately 65% of UI's load is served through the competitive  
14 market, representing about 33% of IU's customers. The increase in customers taking  
15 advantage of the competitive market demonstrates that pricing – as well as other  
16 considerations such as customer service – provides consumers bargaining power when  
17 selecting a generation supplier.

18 7. **Illinois**

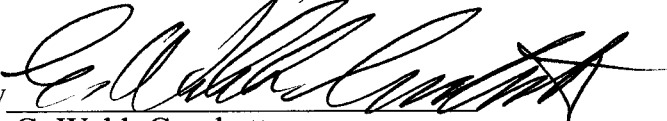
19 According to a July 2010 report issued by the Illinois Office of Retail Market  
20 Development, approximately one-half of all power used in the ComEd and Ameren  
21 service territories is served by competitive marketers. Although there is much room for  
22 improvement in bringing retail competition and choice to residential and smaller  
23 commercial customers, the continued development of retail markets for larger consumers  
24 will help pave the way for such improvement. In fact, the Report concludes that recent  
25 annual increases in the number of small commercial customers demonstrate a trend  
26 towards increased market participation. Report at 8.

1 CONCLUSION

2 Although the development of electric retail markets has not been uniform in the  
3 several states that have been restructuring the electric industry within their jurisdictions,  
4 the move towards open retail markets has created opportunities for customers to reduce  
5 power costs, and to take advantage of specialized power packages that in some cases  
6 includes the use of renewable energy. AECC asserts that the continued development of  
7 competitive retail markets in Arizona is consistent with the public interest, as expressed in  
8 state statutes and previous orders of the Commission.

9 RESPECTFULLY SUBMITTED this 2nd day of August, 2010.

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